

**OPINION
48-128**

March 18, 1948 (OPINION)

FOOD AND DRUGS

RE: Oleomargarine - Sale to Cafe

This is in reply to your letter of March 9 in which you inquire whether or not a cafe purchasing oleomargarine from a manufacturer or jobber outside the state and serving the same to customers would be required under section 19-0506 to secure a license from the State Laboratories Department.

You further inquire whether or not a manufacturer or wholesaler outside the state shipping to customers in state would be required to place upon the packages the stamps as required under section 19-0513.

Section 19-0505 provides that no person shall sell, exchange, or offer for sale, or have in his possession with intent to sell, offer for sale, or for exchange, any oleomargarine without first obtaining a license therefor from the department.

Section 19-0506 provides that the license provided for in section 19-0505 shall be granted only to a person owning or operating a place within this state from or in which oleomargarine is to be manufactured or sold.

Under the provisions of the two sections quoted, it would be our opinion that if the owner of the cafe purchases the oleomargarine from a manufacturer or jobber outside of the state, that is, if the sale is made outside of the state and shipped to the owner of the cafe to be served with other foods, a license would not be required.

NELS G. JOHNSON

Attorney General